

***In re National Prescription Opiate Litigation: MDL 2804***  
**Summary Sheet of Concise Issues Raised**

**Motion Name:** (CT8 – Cobb County) Plaintiff’s Motion for Partial Summary Judgment that Publix Super Markets, Inc. Breached its Duties under the Controlled Substances Act and the Georgia Controlled Substances Act

This motion relates to Case Track Eight: Case No. 1:18-op-45817

*Issue 1:* Is Publix Super Markets, Inc. subject to the same requirements to maintain effective controls against diversion under the CSA and its Georgia equivalent that this Court previously determined apply to distributors and dispensers of controlled substances?

*Answer:* Yes. As this Court did in Case Track Seven with respect to Kroger, this Court should adopt its prior rulings regarding the nature and scope of Publix’s duties under the CSA. It is undisputed that Publix is a registrant under the CSA and its Georgia equivalent and there is no good cause for deviating from the Court’s prior rulings on these issues

*Issue 2:* Did Publix violate the CSA and its Georgia equivalent with respect to the distribution and dispensing of opioids in Cobb County, Georgia?

*Answer:* Yes. The summary judgment evidence establishes as a matter of law that Publix failed to maintain effective controls against diversion with respect to its distribution of opioids, including but not limited to (1) failing to implement and use an appropriate suspicious order monitoring system; (2) failing to investigate and report suspicious orders; and (3) violating its obligation not to ship suspicious orders unless and until appropriate due diligence was performed.

The summary judgment also establishes as a matter of law that Publix violated its dispensing-related duties under the CSA and its Georgia equivalent by, among other things, (1) failing to train its pharmacists how to identify and resolve “red flag” prescriptions, and document due diligence related thereto; and (2) failing to implement systems, policies, and procedures necessary to comply with the pharmacy to comply with its “corresponding responsibility,” and that would have allowed its pharmacists to comply with their “corresponding responsibility” to only fill legitimate prescriptions. As a result, more than 40% of the 750,000 opioid prescriptions dispensed by Publix pharmacies in Cobb County had at least one red flag indicative of diversion, yet there is virtually no evidence that any due diligence was performed on any of them.

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